

108TH CONGRESS
1ST SESSION

S. 1514

To amend the Internal Revenue Code of 1986 to reform certain excise taxes applicable to private foundations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

Mrs. HUTCHISON introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to reform certain excise taxes applicable to private foundations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Philanthropy Expansion and Responsibility Act of
6 2003”.

7 (b) AMENDMENT OF 1986 CODE.—Whenever in this
8 Act an amendment or repeal is expressed in terms of an
9 amendment to, or repeal of, a section or other provision,

1 the reference shall be considered to be made to a section
 2 or other provision of the Internal Revenue Code of 1986.

3 **SEC. 2. REFORM OF CERTAIN EXCISE TAXES RELATED TO**
 4 **PRIVATE FOUNDATIONS.**

5 (a) REDUCTION OF TAX ON NET INVESTMENT IN-
 6 COME.—Section 4940(a) (relating to tax-exempt founda-
 7 tions) is amended by striking “2 percent” and inserting
 8 “1 percent”.

9 (b) REPEAL OF REDUCTION IN TAX WHERE PRI-
 10 VATE FOUNDATION MEETS CERTAIN DISTRIBUTION RE-
 11 QUIREMENTS.—Section 4940 (relating to excise tax based
 12 on investment income) is amended by striking subsection
 13 (e).

14 (c) MODIFICATION OF EXCISE TAX ON SELF-DEAL-
 15 ING.—The second sentence of section 4941(a)(1) (relating
 16 to initial excise tax imposed on self-dealer) is amended by
 17 striking “5 percent” and inserting “25 percent”.

18 (d) MODIFICATION OF EXCISE TAX ON FAILURE TO
 19 DISTRIBUTE INCOME.—

20 (1) CERTAIN ADMINISTRATIVE EXPENSES NOT
 21 TREATED AS DISTRIBUTIONS.—

22 (A) IN GENERAL.—Section 4942(g)(1)(A)
 23 (defining qualifying distributions) is amended
 24 by striking “(including that portion of reason-
 25 able and necessary administrative expenses)”

1 and inserting “(including that portion of rea-
 2 sonable and necessary administrative expenses
 3 which are directly attributable to direct chari-
 4 table activities, grant selection activities, grant
 5 monitoring and administration activities, com-
 6 pliance with applicable Federal, State, or local
 7 law, or furthering public accountability of the
 8 private foundation, except as provided in para-
 9 graph (4))”.

10 (B) LIMITATIONS.—Section 4942(g) is
 11 amended by striking paragraph (4) and insert-
 12 ing the following new paragraphs:

13 “(4) LIMITATION ON ADMINISTRATIVE EX-
 14 PENSES TREATED AS DISTRIBUTIONS.—For pur-
 15 poses of paragraph (1)(A), the following administra-
 16 tive expenses shall not be treated as qualifying dis-
 17 tributions:

18 “(A) Any compensation paid to persons
 19 who are considered disqualified persons.

20 “(B) Any traveling expenses incurred for
 21 travel outside the United States.

22 “(C) Any traveling expenses incurred for
 23 transportation by air solely from one point in
 24 the United States to another point in the

1 United States via first-class transportation on a
 2 commercial aircraft or via a private aircraft.

3 “(5) REGULATIONS.—The Secretary shall pre-
 4 scribe such regulations as may be necessary to carry
 5 out the purposes of paragraphs (1) and (4). Such
 6 regulations shall provide that administrative ex-
 7 penses which are excluded from qualifying distribu-
 8 tions solely by reason of the limitations in paragraph
 9 (1) or (4) shall not subject a private foundation to
 10 any other excise taxes imposed by this subchapter.”.

11 (2) DISALLOWANCE NOT TO APPLY TO CERTAIN
 12 PRIVATE FOUNDATIONS.—

13 (A) IN GENERAL.—Section 4942(j)(3) (de-
 14 fining operating foundation) is amended—

15 (i) by striking “(within the meaning
 16 of paragraph (1) or (2) of subsection (g))”
 17 each place it appears, and

18 (ii) by adding at the end the following
 19 new sentence: “For purposes of this para-
 20 graph, the term ‘qualifying distributions’
 21 means qualifying distributions within the
 22 meaning of paragraph (1) or (2) of sub-
 23 section (g) (determined without regard to
 24 subsection (g)(4)).”.

1 (B) CONFORMING AMENDMENT.—Section
2 4942(f)(2)(C)(i) is amended by inserting “(de-
3 termined without regard to subsection (g)(4))”
4 after “within the meaning of subsection
5 (g)(1)(A)”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2003.

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